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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,260	11/01/2005	Stein Kuiper	NL 030547	7818
24737	7590	12/01/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS				WONG, TINA MEI SENG
P.O. BOX 3001				
BRIARCLIFF MANOR, NY 10510				
ART UNIT		PAPER NUMBER		
		2874		

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/555,260	KUIPER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tina M. Wong	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 November 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

Receipt from the International Bureau is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d) in this national stage application, which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-6, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2002/0037130 to McBride et al in view of U.S. Patent Application Publication 2003/0012483 to Ticknor et al.**

In regards to claims 1, 9 and 11, McBride et al discloses an optical switchable element (Figure 1) comprising a chamber (116) comprising two bodies of fluid ([0017]: fluid/fluid interface), the first fluid being at least one of a polar liquid and conducting liquid (water) and the second fluid being a non-conducting liquid (oil), a first and second electrode (Figure 3, 302 & 304) arranged to control spatial distribution of the first and second liquids.

But McBride et al fails to specifically disclose at least one of the first and second bodies of fluid to comprise a surfactant. However, Ticknor et al discloses a similar optical switchable element with two different liquids in a chamber, one of the liquids further comprising a surfactant for the purpose of having further control of the desired properties of the fluid.

([0083]). Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to have included a surfactant in at least one of the first and second bodies of fluid in order to change a property of the fluid, such as changing surface tension.

In regards to claims 2-4, Ticknor et al discloses the surfactant to affect the interfacial tension between the a body of fluid and the surface which the body is in contact with, such as another body of fluid, or at least one wall of the closed cell.

In regards to claim 5, Ticknor et al discloses Triton-X and FC430 as examples of surfactants. Both these materials include alcohol, Triton-X includes ethylene and FC430 includes methane and methanol.

In regards to claim 6, Ticknor et al discloses the surfactant to have a molecule having a hydrocarbon (Triton-X) or fluorocarbon (FC430).

**Claims 7, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2002/0037130 to McBride et al in view of U.S. Patent Application Publication 2003/0012483 to Ticknor et al as applied to claim 1 above, in further view of U.S. Patent 6,825,068 to Denis et al and U.S. Patent 7,033,985 to Noyes et al and U.S. Patent 6,818,021 to Noyes et al.**

In regards to claims 7 and 8, McBride et al and Ticknor et al discloses all discussed above, but fails to specifically disclose the surfactant to be chosen from a group comprising various chemical compounds. However, Ticknor et al, Denis et al, '985 Noyes et al and '021 Noyes et al all disclose a wide variety of examples of different surfactant compounds. Since McBride et al and Ticknor et al discloses surfactants to be used as surface tension reducers but fail to further elaborate on the different properties or possible surfactants, it would have been

obvious at the time the invention was made to a person having ordinary skill in the art to have the surfactant to be chosen from a group as claimed by Applicant since Ticknor teaches other soluble materials can be applied to the fluid to reduce surface tension.

In regards to claim 10, '985 Noyes et al and '021 Noyes et al both disclose the element to be used in a motor.

***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

***Inventorship***

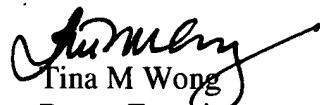
This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tina M. Wong whose telephone number is (571) 272-2352. The examiner can normally be reached on Monday-Friday 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tina M Wong  
Patent Examiner  
Art Unit 2874